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May 26, 1983

Mr. Robert Brotherton, Financial Manager
NH Sweepstakes Commission
Fort Eddy Road
Concord, NH 03301

Dear Mr. Brotherton:

By letter dated May 20, 1983, you have requested our opinion on whether a document which sets out the terms of an Agreement between Seacoast Birthright of Portsmouth and Coast Associates and which has been submitted to the Sweepstakes Commission by Seacoast Birthright is subject to RSA 91-A:4, the provision of the Right to Know Law concerning inspection by the public of public records. Our response is that the above-referenced document is subject to RSA 91-A:4, and therefore should be made available for inspection by the public.

As we have previously mentioned, the purpose of RSA 91-A, is "to ensure both the greatest possible public access to the actions, discussions and records of all public bodies, and their accountability to the people." RSA 91-A:1 (Supp. 1981),



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see our opinion #83-53-I, April 14, 1983. Although RSA 91-A provides no definition of public record,¹ the Supreme Court has stated that the scope and application of the statute are to be broadly construed. Thayer v. State Tax Commission, 113 N.H. 533 (1973). As the agreement which is the subject of your letter has been filed with a state organization and "was a factor in [your] determination that the agency was qualified under RSA 287:1," it is our opinion that it is a public record for the purposes of RSA 91-A:4.

You have further requested that we determine whether this Agreement is exempted from public disclosure by RSA 91-A:5. To determine whether the Agreement is exempted by RSA 91-A:5, the benefits of disclosure to the public must be weighed against the benefit of nondisclosure to the public body. Mans v. Lebanon School Board, 112 N.H. 160 (1972). Although we recognize that the Agreement contains limited financial information, that information must be provided to the Sweepstakes Commission in reports by those charitable organizations licensed to operate beano games. RSA 287:13 (Supp. 1981). Given the stated purpose of the Right to Know law to provide for public accountability and the supervisory role assumed by the Sweepstakes Commission in administering RSA Ch. 287, the benefits of disclosure to the public outweigh any conceivable benefits of nondisclosure. Accordingly, it is our

¹ Although not controlling, we would note that RSA 8-B:7,II defines a state record as

(1) A record of a department, office, commission, board or other agency, however designated, of the state government, or

(2) A record of the state legislature, or

(3) A record of any court of record, whether of statewide or local jurisdiction, or

(4) Any other record designated or treated as a state record under state law.

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opinion that the Agreement does not fall within the exemptions established in RSA 91-A:5 and thus should be made available for public inspection pursuant to RSA 91-A:4.

Very truly yours,

Loretta S. Platt

Loretta S. Platt
Assistant Attorney General
Division of Legal Counsel

LSP/gla

83-74-I